

## Regulations and other Acts

Gouvernement du Québec

**O.C. 70-2018, 7 February 2018**

Pesticides Act  
(chapter P-9.3)

### **Pesticides Management Code — Amendment**

Regulation to amend the Pesticides Management Code

WHEREAS, under sections 101 and 105 of the Pesticides Act (chapter P-9.3), the Government enacts by regulation a Pesticides Management Code which may prescribe rules, restrictions or prohibitions respecting activities related to the distribution, sale or use of any pesticide, and the content of the Code may vary according to the classes of persons carrying on the activities, the environment in which the activities are carried on, the means or systems used or the pesticides or classes of pesticides;

WHEREAS, under paragraphs 8, 10, 11 and 13 of section 109 of the Act, the Government may, by regulation, prescribe the requirements to be observed by the holder of a permit or certificate, indicate the registers that must be kept by all or some of the permit holders, indicate the records or other documents to be preserved, and prescribe any other measure required to facilitate the carrying out of the Act;

WHEREAS, under section 107 and paragraph 12 of section 109 of the Act, the Government may prescribe that contravention of the provisions of the regulations which it indicates constitutes an offence;

WHEREAS the Government made the Pesticides Management Code (chapter P-9.3, r. 1);

WHEREAS it is expedient to amend the Regulation;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Pesticides Management Code was published in Part 2 of the *Gazette officielle du Québec* of 19 July 2017 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS it is expedient to make the Regulation to amend the Pesticides Management Code with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Sustainable Development, the Environment and the Fight Against Climate Change:

THAT the Regulation to amend the Pesticides Management Code, attached to this Order in Council, be made.

ANDRÉ FORTIER,  
*Clerk of the Conseil exécutif*

### **Regulation to amend the Pesticides Management Code**

Pesticides Act  
(chapter P-9.3, ss. 101, 105, 107 and 109, pars. 8, 10, 11, 12 and 13)

**1.** The Pesticides Management Code (chapter P-9.3, r. 1) is amended in section 1

(1) by replacing subparagraph *b* of paragraph 2 of the definition “protected immovable” by the following:

“(b) a building used or intended to be used to shelter or receive persons or animals, or any other administrative or commercial building;”;

(2) by adding the following paragraph at the end:

“The expression “apply a pesticide” includes, for the purposes of this Code, the action of putting a pesticide into or on the soil.”.

**2.** Section 21 is amended by replacing “the Canadian Transport Emergency Centre” in subparagraph 5 of the first paragraph by “Transport Canada’s Canadian Transport Emergency Centre”.

**3.** Section 26 is amended by replacing the second paragraph by the following:

“It is also prohibited to sell or offer for sale Class 4 or Class 5 pesticides in a package containing more than one pesticide container, except if the pesticide is used as

(1) insect attractant or repellent;

(2) insecticide for the treatment of domestic animals;

- (3) insect or rodent bait trap;
- (4) repellent; or
- (5) larvicide controlling biting insects.

Packages must consist of containers bearing the same registration number assigned to the pesticide under the Pest Control Products Act (S.C. 2002, c. 28) and the total volume or weight of the containers must not exceed 1 litre or 1 kg.”.

**4.** Section 27 is amended by inserting “Class 3A pesticides or” after “except in the case of”.

**5.** Section 32 is replaced by the following:

“**32.** Only biopesticides or pesticides containing any of the active ingredients listed in Schedule II may be applied inside or outside the following establishments:

(1) childcare centres, day care centres and home childcare residences governed by the Educational Childcare Act (chapter S-4.1.1);

(2) preschools, primary or secondary schools governed by the Education Act (chapter I-13.3), the Education Act for Cree, Inuit and Naskapi Native persons (chapter I-14) or the Act respecting private education (chapter E-9.1).

**32.1.** Despite section 32, a pesticide containing any of the following active ingredients may, on the conditions set hereafter, be applied inside or outside an establishment referred to in that section:

(1) cyfluthrin to control or destroy flying insects, crawling insects, food insects or wood insects if the pesticide application

i. is carried out by a holder of a Subclass C5 permit; and

ii. is preceded by the application of a biopesticide or a pesticide containing an active ingredient listed in Schedule II, carried out at least 7 days before the application of a pesticide containing that active ingredient, in the case of crawling insects or wood insects;

(2) D-phenothrin or tetramethrin to destroy wasps’, hornets’ or bees’ nests if the pesticide application is carried out by a holder of a Subclass C5 permit;

(3) bromadiolone in combination with denatonium benzoate or bromethalin in combination with denatonium benzoate to control or destroy rodents if

i. the pesticide is used in solid form in traps, stations or containers that prevent any contact with human beings and that are locked; and

ii. the pesticide application is carried out by a holder of a Subclass C5 permit.

A pesticide to control the emerald ash borer may also be injected in the trees on the grounds of an establishment referred to in section 32 if

(1) the injection is carried out by a holder of a Subclass C4 permit and the holder of the permit takes the measures required to prevent any person from coming into contact with the injector; and

(2) the injection holes are sealed after the application.

The holder of a permit referred to in this section must, at least 24 hours before the application of a pesticide referred to in the first or the second paragraph, notify the administrator of the establishment in writing. The holder of the permit must state in the notice the name of the pesticide to be applied and the name of the active ingredients, the registration number assigned to the pesticide under the Pest Control Products Act (S.C. 2002, c. 28), the reasons justifying the application of the pesticide and the proposed date and time of the application.”.

**6.** Section 33 is replaced by the following:

“**33.** The application of a biopesticide or a pesticide referred to in section 32 or in subparagraph 1 or 2 of the first paragraph of section 32.1 must be carried out outside the establishment’s period of activities that take place inside or outside an establishment referred to in section 32.

The same applies for the injection of a pesticide referred to in the second paragraph of section 32.1 whose application period corresponds to the period during which the injector is in the tree.

Where the application of a biopesticide or a pesticide referred to in the first paragraph is carried out inside an establishment, the application must be followed by a period of at least 8 hours before the services or activities resume in the treated premises. If the pesticide applied contains cyfluthrin, that period must be at least 12 hours.”.

**7.** Section 34 is amended by striking out “and to a farmer or forest manager within the meaning of section 33 of that Act who uses Class 3 pesticides”.

**8.** Section 38 is amended by inserting “Class 1 to Class 3, Class 4 or Class 5” after “prepares or loads” in the first paragraph.

**9.** Section 49 is amended by replacing “50 to 74” by “50 to 74.4”.

**10.** Section 66 is revoked.

**11.** The following is inserted after section 74:

**“6. Agricultural purposes**

**74.1.** It is prohibited to apply, for agricultural purposes, Class 3A pesticides or Class 1 to Class 3 pesticides containing atrazine, chlorpyrifos, clothianidin, imidacloprid or thiamethoxam unless an agronomic justification containing the following information has been obtained:

- (1) the number of the document;
- (2) the name, address, telephone number and, where applicable, email address of the farmer who intends to apply the pesticide;
- (3) where applicable, the name, address and telephone number of the owner of the parcel;
- (4) the name, address of the professional domicile and, where applicable, email address of the mandated agrologist and the agrologist’s member number in the Ordre des agronomes du Québec;
- (5) in the case of Class 1 to Class 3 pesticides, the crop to be treated;
- (6) the identification of the parcel in which the work is to be performed;
- (7) the identification of the phytosanitary problem;
- (8) an evaluation of the phytosanitary problem;
- (9) an analysis of the various possible phytosanitary interventions, including alternative pest control methods available;
- (10) the treatment required;
- (11) the reasons justifying the choice of the treatment;
- (12) the name of the active ingredient involved in the treatment and
  - (a) in the case of Class 1 to Class 3 pesticides, the names of the pesticides containing the active ingredient involved and the quantity required; and
  - (b) in the case of Class 3A pesticides, the quantity of seeds required and the plant species concerned;

(13) the expiry date of the justification;

(14) the signature of the agrologist and the date.

**74.2.** The agronomic justification referred to in section 74.1 is accompanied by an agronomic prescription signed by the agrologist who prepared the agronomic justification.

The prescription must be dated and must contain

- (1) the number of the agronomic justification;
- (2) the name, address and telephone number of the farmer;
- (3) the name and address of the professional domicile of the agrologist who signed it and the agrologist’s member number in the Ordre des agronomes du Québec;
- (4) the name of the active ingredient involved in the treatment and
  - (a) in the case of Class 1 to Class 3 pesticides, the names of the pesticides containing the active ingredient involved and the quantity required; and
  - (b) in the case of Class 3A pesticides, the quantity of seeds required and the plant species concerned; and
- (5) the expiry date of the prescription.

**74.3.** The pesticides referred to in section 74.1 must be applied in compliance with the conditions listed in the agronomic justification.

The validity period of the justification may not exceed 1 year and the justification may not cover more than 1 crop per parcel or per group of parcels.

The validity period of the agronomic prescription may not exceed the expiry date provided for in the justification.

In addition, the farmer must keep the agronomic justification for a period of 5 years following the date of its signature by the agrologist. The farmer must send a copy to every person authorized by the Minister who so requests.

**74.4.** Despite sections 74.1 to 74.3, Class 1 or Class 3 pesticides containing chlorpyrifos, clothianidin, imidacloprid or thiamethoxam may be applied before obtaining an agronomic justification where, in the opinion of the agrologist, the application of the pesticide is the treatment most appropriate to ensure rapid control of an insect pest that endangers a crop.

In that case, an agronomic prescription must be obtained before applying the pesticide. The prescription must be signed and dated, and contain the information provided for in paragraphs 2 to 5 of section 74.2. In addition, it must bear a number preceded by the letter “U” and indicate the parcel or group of parcels where the application will take place.

The pesticide must be applied within 36 hours of the issue of the agronomic prescription and comply with the conditions mentioned therein.

An agronomic justification including the information provided for in paragraphs 1 to 12 and 14 of section 74.1 must be obtained not later than 2 business days after the issue of the agronomic prescription. As regards paragraph 1 of section 74.1, the agronomic justification bears the number indicated in the agronomic prescription.

In addition, the farmer must keep the agronomic justification for a period of 5 years following the date on which the agrologist signed it. The farmer must send a copy to any person authorized by the Minister who so requests.”.

**12.** Section 75 is amended by replacing “86” in the first paragraph by “86.1”.

**13.** Section 86 is amended

(1) by replacing “or protected immovable” in the first paragraph by “, protected immovable or bicycle path physically separated from the automobile traffic and that has its own right of way”;

(2) by inserting “or bicycle path physically separated from the automobile traffic and that has its own right of way” after “protected immovable” in the third paragraph.

**14.** The following is added after section 86:

“**86.1.** Sections 74.1 to 74.4 apply, with the necessary modifications, to the application, for agricultural purposes, of Class 1 to Class 3 pesticides containing atrazine, chlorpyrifos, clothianidin, imidacloprid or thiamethoxam.

*§4. Register of the use of pesticides for agricultural purposes*

**86.2.** The farmer who carries out, for agricultural purposes, work involving the application of Class 1 to Class 3A pesticides must keep a register containing

(1) the name, address, telephone number and, where applicable, email address of the farmer and those of the owner of the premises, if applicable;

(2) the date on which the work was performed;

(3) the reasons justifying the work;

(4) the name of the certificate holder who carried out or supervised the work and the certificate number;

(5) the identification of the parcel or building where the work was carried out;

(6) in the case of Class 1 to Class 3 pesticides, the identification of what the treatment was applied to and its area, volume or quantity;

(7) in the case of Class 3A pesticides, the area treated;

(8) the name of the pesticide used and the name of its active ingredients;

(9) the quantity of pesticide used or, in the case of Class 3A pesticides, the quantity of seeds and the plant species concerned;

(10) where applicable, the registration number assigned to the pesticide under the Pest Control Products Act (S.C. 2002, c. 28); and

(11) if the pesticide used is referred to in section 74.1 or 74.4, the number of the agronomic justification obtained, the name of the agrologist who signed it and the agrologist’s member number in the Ordre des agronomes du Québec.

The farmer must keep the register referred to in the first paragraph for a period of 5 years following the date of the last entry.”.

**15.** Section 87 is replaced by the following:

“**87.** Every person who commits an offence under sections 5, 6, 8 to 33, 35 to 40, 42 to 48, 50 to 53, 55 to 74.4, 76 to 78 and 80 to 86.2 is liable to the penalties prescribed by section 118 of the Pesticides Act (chapter P-9.3).”.

**16.** Schedule I is amended by inserting “Clothianidin” after “Carbaryl” and “Imidacloprid” after “Dicofol” under “Insecticides”.

**17.** This Regulation comes into force on 8 March 2018, except

(1) section 16, which comes into force on 8 March 2019;

(2) the provisions relating to the agronomic justification and prescription comprised in sections 74.1 to 74.4 and section 86.2, introduced by sections 11 and 14 of this Regulation, which come into force, depending on the pesticide concerned, on the following dates:

Date	Pesticides
8 March 2018	Class 1 to Class 3 pesticides containing atrazine
8 September 2018	Class 3A pesticides
1 April 2019	Class 1 to Class 3 pesticides containing chlorpyrifos, clothianidin, imidacloprid or thiamethoxam.

103340

Gouvernement du Québec

## O.C. 71-2018, 7 February 2018

Pesticides Act  
(chapter P-9.3)

### Permits and certificates for the sale and use of pesticides

#### — Amendment

Regulation to amend the Regulation respecting permits and certificates for the sale and use of pesticides

WHEREAS, under sections 32 and 101 of the Pesticides Act (chapter P-9.3), the Government, by regulation, designates, among the classes of pesticides it establishes, those for which a permit or certificate is required and the contents of the regulation may vary according to the classes or subclasses of permits or certificates;

WHEREAS, under paragraphs 1, 3, 4, 8, 10, 11, 12 and 13 of section 109 of the Act, the Government may, by regulation, establish classes of pesticides, prescribe the requirements to be observed by the holder of a permit or certificate and indicate the registers that must be kept by all or some of the permit holders;

WHEREAS the Government made the Regulation respecting permits and certificates for the sale and use of pesticides (chapter P-9.3, r. 2);

WHEREAS it is expedient to amend the Regulation;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Regulation respecting permits and certificates for the sale and use of pesticides was published in Part 2 of the *Gazette officielle du Québec* of 19 July 2017 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS it is expedient to make the Regulation to amend the Regulation respecting permits and certificates for the sale and use of pesticides with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Sustainable Development, the Environment and the Fight Against Climate Change:

THAT the Regulation to amend the Regulation respecting permits and certificates for the sale and use of pesticides, attached to this Order in Council, be made.

ANDRÉ FORTIER,  
*Clerk of the Conseil exécutif*

### Regulation to amend the Regulation respecting permits and certificates for the sale and use of pesticides

Pesticides Act  
(chapter P-9.3, ss. 32, 101 and 109, pars. 1, 3, 4, 8, 10, 11, 12 and 13)

**1.** The Regulation respecting permits and certificates for the sale and use of pesticides (chapter P-9.3, r. 2) is amended by inserting the following after section 1:

“**1.1.** For the purposes of this Regulation, the action of putting a pesticide into or on the soil is considered to be the application of a pesticide.”

**2.** The following is inserted after section 5:

“**5.1.** Every pesticide that coats a seed of oats, wheat, canola, forage corn, grain corn, sweet corn, barley or soybean and that is constituted of a mixture that contains one or more of the following active ingredients is included in Class 3A:

- (1) clothianidin;
- (2) imidacloprid;
- (3) thiamethoxam.”